

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

RICARDO DAUGHTRY,	:	
	:	
Plaintiff,	:	
	:	
v.	:	CASE NO. 5:13-CV-383-MTT-MSH
	:	42 U.S.C. § 1983
Lieutenant Officer JOHN DOE, et al.,	:	
	:	
Defendants.	:	
	:	

REPORT AND RECOMMENDATION

Presently pending in this case is Plaintiff's motion to voluntarily dismiss his complaint. On December 19 and 20, 2013, Defendants John Doe (Mental Health Director), Larry Jordan, and Cherie Price filed two Motions to Dismiss Complaint. (ECF Nos. 14 & 17.) Both motions raised Plaintiff's failure to exhaust administrative remedies as grounds for relief, and both remain pending. On January 24, 2014, Plaintiff moved to amend his complaint, which motion also remains pending. (ECF No. 21.) Then, on February 28, 2014, Plaintiff moved to dismiss his complaint so that he may exhaust his administrative remedies. (Pl.'s Mot. to Dismiss 1, ECF No. 25.) Since the Defendants have not yet filed an answer or motion for summary judgment in this case, the Court construes Plaintiff's motion as a motion for voluntary dismissal pursuant to Federal Rules of Civil Procedure Rule 41(a)(1). Such a voluntary dismissal does not typically require a court order, but the Plaintiff has filed the presently pending motion. Consequently, the Court recommends granting Plaintiff's motion and dismissing the action without prejudice.

Furthermore, because the Court recommends dismissing the action, Defendants' motions to dismiss should be denied as moot, as should Plaintiff's motion to amend.

Wherefore it is recommended that Plaintiff's motion (ECF No. 25) be granted and his Complaint be dismissed without prejudice. It is further recommended that Plaintiff's motion to amend (ECF No. 21) and Defendants' motions to dismiss (ECF Nos. 14 & 17) be denied as moot. Pursuant to 28 U.S.C. § 636(b)(1), the Plaintiff may serve and file written objections to this recommendation with the United States District Judge within fourteen (14) days after being served a copy of this recommendation.

SO RECOMMENDED, this 6th day of March, 2014.

/s/ Stephen Hyles
UNITED STATES MAGISTRATE JUDGE